

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re

CUSTOMS AND TAX ADMINISTRATION OF
THE KINGDOM OF DENMARK
(SKATTEFORVALTNINGEN) TAX REFUND
SCHEME LITIGATION

This document relates to 1:18-CV-05053-LAK.

MASTER DOCKET

Case No. 1-18-MD-02865-LAK

DECLARATION OF MARTIN H. KAPLAN

I, Martin H. Kaplan, depose and testify as follows:

1. I am a partner of the law firm Gusrae Kaplan Nusbaum PLLC.
2. I am counsel for Defendants The Goldstein Law Group PC 401(K) Profit Sharing Plan (the "Plan") and Sheldon Goldstein (together, the "Goldstein Defendants") and submit this declaration in support of the Goldstein Defendants' Opposition to Plaintiff-Counterclaim Defendant Skatteforvaltningen's ("SKAT") Motion to Dismiss the Amended Counterclaims (the "Opposition").
3. I have personal knowledge of the matters discussed in this declaration.
4. In addition to the 183 lawsuits consolidated in this multi-district litigation, SKAT has filed, inter alia, a related lawsuit in the United Kingdom against various parties, including Third-Party Defendant ED&F Man Capital Markets, Ltd. ("ED&F Man").
5. Attached hereto as Exhibit A is a true and correct copy of the Defence (similar to an Answer in United States Courts) filed by ED&F Man in the High Court

of Justice, Business and Property Courts of England & Wales, Commercial Court (the “English Action”), CL-2018-000297, CL-2018-000404, CL-2018-00590 (Dec. 13, 2018).

6. Attached hereto as Exhibit B is a true and correct copy of the Amended Particulars of Claim filed by SKAT in the English Action on March 6, 2019.

7. Attached hereto as Exhibit C is a true and correct copy of the Decision revoking former decisions on dividend tax refunds issued by SKAT against the Plan on May 4, 2018 (the “Revocation Decision”).

8. Attached hereto as Exhibit D is a true and correct copy of the appeal of the Revocation Decision submitted by the Plan to the Danish Tax Appeals Agency on August 3, 2018.

9. Attached hereto as Exhibit E are true and correct copies of the following unpublished cases, which are cited in the Goldstein Defendants’ Opposition brief:

- a. AARP v. 200 Kelsey Assocs., LLC, No. 06 CIV 81 (SCR), 2009 WL 47499 (S.D.N.Y. Jan. 8, 2009) (Lynch, J.);
- b. ACE Am. Ins. Co. v. Bank of the Ozarks, No. 11 Civ. 3146 PGG, 2014 WL 4953566 (S.D.N.Y. Sept. 30, 2014) (Gardephe, J.);
- c. Ballard v. Parkstone Energy, LLC, No. 06 CV 13099, 2008 WL 4298572 (S.D.N.Y. Sept. 19, 2008) (Sweet, J.);
- d. Henneberry v. Sumitomo Corp. of Am., No. 04 Civ 2128 (PKL), 2005 WL 991772 (S.D.N.Y. Apr. 27, 2005) (Leisure, J.);
- e. MasterCard Int’l Inc. v. Argencard Sociedad Anonima, No. 01 Civ. 3027(JGK), 2002 WL 432379 (S.D.N.Y. Mar. 20, 2002) (Koetl, J.);
- f. United States v. Armstrong, No. 99 Cr. 997(JFK), 2011 WL 292018 (S.D.N.Y. Jan. 28, 2011) (Keenan, J.); and
- g. Viringo, Inc. v. ZTE Corp., No. 14-cv-4988(LAK), 2015 WL 3498634 (S.D.N.Y. June 3, 2015) (Kaplan, J.).

I, Martin H. Kaplan, hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: June 3, 2019
New York, New York

/s/ Martin H. Kaplan